BILL AS AMENDED BY THE SELECT COMMITTEE.

[ADDITIONS ARE INDICATED IN ITALICS AND OMISSIONS ARE ENCLOSED IN SQUARE BRACKETS.]

BILL TO AMEND THE WORKMEN'S COMPENSATION REGULATION, No. XIV OF 1928.

WHEREAS it is expedient to amend the Workmen's Compensation Regulation, No. XIV of 1928; It is hereby enacted as follows:—

1. This Regulation shall be called the Workmen's Compensation (Amendment) Regulation, 193 .

2. In section 2 of the Workmen's Compensation Regulation, 1928 (hereinafter referred to as the said Regulation),—

(*a*) in sub-section (1):—

(i) the following shall be substituted for the existing clause (*d*):—

(*d*) "dependent" means any of the following relatives of a deceased workman, namely—

(i) a wife, a minor legitimate son, *a minor adopted son* and unmarried legitimate daughter, or a widowed mother; and

(ii) if wholly or in part dependant on the earnings of the workman at the time of his death, a husband, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent of the workman is alive, a paternal grandparent.

(ii) in sub-clause (ii) of clause (*l*) the words "either by way of manual labour or" shall be omitted.

(*b*) for sub-section (3), the following shall be substituted:—

"The Government, after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add to Schedule II any class of persons employed in any occupation which it is satisfied is a hazardous occupation, and the provisions of this Regulation shall thereupon apply to such classes of persons:

Provided that in making such additions the Government may direct that the provisions of this Regulation shall apply to such classes of persons in respect of specified injuries only."

3. In section 3 of the said Regulation,—

(*a*) in sub-section (1):—

(i) in proviso (*a*) for the word 'ten' the word 'seven' shall be substituted;

(ii) in proviso (*b*) for the words "injury to a workman resulting from" the words "injury, not resulting in death, caused by" shall be substituted; and

(iii) the word 'or' of proviso (*b*) at the end of sub-clause (iii) and the whole of proviso (*c*) shall be omitted;

(*b*) in sub-section (2) for the words "hides or skins" the following shall be substituted, namely:—"or animal carcasses or parts of such carcasses, or in the loading, unloading or transport of any merchandise, or in any work in connection with animals infected with anthrax;" and

"(*c*) *after sub-section 2 add the following as sub-section (2A):—*

"*Notwithstanding anything contained in subsection (1), a right to compensation in respect of any occupational disease specified in Schedule III shall be conditional on compliance with such requirements as may be prescribed in regard to medical examination of workmen and autopsy on the body of deceased workmen.*"

[(*c*)] (*d*) in sub-section (4) the words "solely and" shall be omitted.

4. In sub-section (1) of section 4 of the said Regulation,—

(*a*) for clause (i) under A, the following shall be substituted:—

"(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and";

(*b*) for clauses (i) and (ii) under B, the following shall be substituted:—

"(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of

Schedule IV—the amount shown against such limits in the third column thereof, and

(ii) in the case of a minor—twelve hundred rupees;"

(c) (i) in D, for the words "ten days" the words "seven days" shall be substituted; and

(ii) for clauses (i) and (ii) and the proviso under D, the following shall be substituted:—

"(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—of the sum shown against such limits in the fourth column thereof, and

(ii) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees:

Provided that (*a*) there shall be deducted from any lumpsum or half-monthly payments to which the workman is entitled, the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lumpsum or the first half-monthly payment, as the case may be; and

(*b*) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident."

5. In section 5 of the said Regulation,—

(i) [for the word and figure "Section 4" the words "this Regulation" shall be substituted;]

"*for the words 'For the purpose of section 4, the monthly wages of a workman', the words "In this Regulation, monthly wages mean the wages of a workman, 'by whatever period paid, and' shall be substituted.*"

(ii) after clause (*a*) the following clause shall be inserted, *viz.*,—

"(*b*) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be deemed to be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the

same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;"

(iii) clause (*b*) shall be re-lettered as clause (*c*), and

(iv) the proviso shall be omitted.

6. In section 8 of the said Regulation:—

(*a*) for sub-sections (1) to (3), the following sub-sections shall be substituted, namely:—

"(1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lumpsum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of [one hundred] *fifty* rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him;" and

(*b*) in sub-section (4) (i) after the words "under sub-section (1)" the words "as compensation in respect of a deceased workman" shall be inserted,

(ii) the words "shall deduct" shall be substituted for the words "may deduct," and

(iii) the word "twenty-five" shall be substituted for the word "fifty;"

(*c*) for sub-section (5), the following sub-sections shall be substituted, namely:—

"(5) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the

discretion of the Commissioner, be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(7) Where any lumpsum deposited with the Commissioner is payable to a woman or a person under legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman;" and

(*d*) sub-section (6) shall be re-numbered as sub-section (8); and

(*e*) after that sub-section the following sub-section shall be added, namely:—

"(9) Where the Commissioner varies any order under sub-section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 30."

7. In section 10 of the said Regulation,—

(*a*) in sub-section (1), after the first proviso the following further proviso shall be inserted, namely:—

"Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the maintenance of proceedings—

(*a*) if the claim is made in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or

died without having left the vicinity of the premises or place where the accident occurred, or

(*b*) if the employer had knowledge of the accident from any other source at or about the time when it occurred ;" and

(*b*) for sub-section (3) the following sub-sections shall be substituted, namely :—

"(3) The Government may require that any prescribed class of employers shall maintain at their premises at which workmen are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured workman employed on the premises and to any person acting *bona fide* on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book."

8. After section 10 of the said Regulation the following sections shall be inserted, namely :—

Power to require from employers statements regarding fatal accidents. 8 of 15 of 33.

"10A. (1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such inquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

Reports of fatal accidents.

10B. (1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within seven days of the death, send a report to the Commissioner giving the circumstances attending the death :

Provided that where the Government has so prescribed the person required to give the notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice.

(2) The Government may, by notification in the Official Gazette, extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the Commissioner."

9. In sub-section (2) of section 12 of the said Regulation after the words " the contractor " the following words shall be inserted :—

"or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation."

10. In Chapter II and after section 17 of the said Regulation, the following section shall be inserted, namely :—

Penalties

"17A. (1) Whoever—

(*a*) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10, or

(*b*) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A, or

(*c*) fails to send a report which he is required to make under section 10B, or

(*d*) fails to make a return which he is required to make under section 15, shall be punishable with fine which may extend to one hundred rupees.

(2) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognizance of any offence under this section, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed."

11. In sub-section (1) of section 18 of the said Regulation, for the words 'the Commissioner' the words 'a Commissioner' shall be substituted.

12. In section 19 of the said Regulation,—

(*a*) after sub-section (1) the following sub-section shall be inserted, namely :—

"(2) Where more than one Commissioner has been appointed for any local area, the Government may, by general or special order, regulate the distribution of business between them;" and

(*b*) sub-sections (2) and (3) shall be re-numbered as sub-sections (3) and (4).

13. In section 20 of the said Regulation,—

(*a*) in sub-section (1), for the words "the Commissioner" the words "a Commissioner" shall be substituted ; and

(*b*) after sub-section (4) the following sub-section shall be added, namely :—

"(5) The Government may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it."

14. In section 21 of the said Regulation,—

(*a*) in sub-section (1) after the word "Commissioner" a comma and the words "other than an application by a dependant or dependants for compensation," shall be inserted ; and

(*b*) in sub-section (2),

(i) for the words "Where any such question has arisen, the application," the words "An application to a Commissioner" shall be substituted, and

(ii) for clause (*d*) the following shall be substituted, namely :—

"except in the case of an application by dependants for compensation a concise statement of the matters on which agreement has and of those on which agreement has not been come to."

15. After section 21 of the said Regulation the following sections shall be inserted, namely :—

Power of Commissioner to require further deposit in cases of fatal accidents.

"21A. Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency."

16. In section 22 after the word "objects" the following words shall be added, namely :—

"and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1904."

17. In sub-section (1) of section 27 of the said Regulation,—

(*a*) for the words "to a person under a legal disability or to a dependant" the words "to a woman or a person under a legal disability" shall be substituted;

(*b*) clause (*b*) of the proviso shall be omitted;

(*c*) in clause (*d*) of the proviso,

(i) for the words "to a person under any legal disability or to any dependant," the words "to a woman or a person under a legal disability" shall be substituted, and

(ii) for the words "or may make such order" the words "and may make such order" shall be substituted.

18. To sub-section (1) of section 29 of the said Regulation, after the existing provisos the following further proviso shall be added, namely :—

"Provided further that no appeal by an employer under clause (*a*) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against."

19. After section 29 of the said Regulation, the following section shall be inserted, namely :—

Withholding of certain payments pending decision of appeal.

"29A. Where an employer makes an appeal under clause (*a*) of sub-section (1) of section 29, the Commissioner may, and if so directed by the High Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him."

20. In sub-section (2) of section 31 of the said Regulation, after clause (*k*) the following clauses shall be inserted, namely :—

"(*l*) for prescribing the classes of employers who shall maintain notice books under sub-section (3) of section 10 and the form of such notice books;

(*m*) for prescribing the form of statement to be submitted by employers under section 10A ;

(*n*) for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner, and

(*o*) generally for carrying on all or any of the purposes of this Regulation."

21. After section 32 of the said Regulation the following section shall be inserted, namely :—

"32A. The Government may by notification in the Official Gazette make rules for the transfer to any part of British India or other States in India of money paid to a Commissioner under this Regulation for the benefit of any person residing or about to reside in such part and for the receipt and administration in Mysore of any money awarded under the law relating to workmen's compensation in any such part and applicable for the benefit of any person residing or about to reside in Mysore."

22. For Schedule II of the said Regulation, the following shall be substituted :—

SCHEDULE II.

The following persons are workmen within the meaning of section 2 (I) (1) and subject to the provisions of that section, that is to say, any person who is—

(i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of mechanically propelled vehicles used for the carriage of passengers for hire or for industrial or commercial purposes ; or ;

(ii) employed within the meaning of clause (2) of section 2 of the Mysore Factories Regulation, 1914, in any place which is a factory within the meaning of sub-clause (*a*) of clause (3) of that section ; or

(iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, fifty or more persons have been so employed; or

(iv) employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed ; or

(v) employed in any mine which is subject to the operation of the Mysore Mines Regulation, 1906 ;

Explanation.—A person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning, or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations.

Or

(vi) employed in the construction, repair or demolition of—

(*a*) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the roof; or

(*b*) any dam or embankment which is twenty feet or more in height from its lowest to its highest point; or

(*c*) any road, bridge, or tunnel ; or

(vii) employed in setting up, repairing, maintaining, or taking down any telephone line or post or any overhead electric line or cable or post or standard for the same ; or

(viii) employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal, pipe-line, or sewer ; or

(ix) employed in the service of any fire brigade ; or

(x) employed upon a railway as defined in clause (4) of section 3, *and in sub-section (1) of Section 129* of the Mysore Railways Regulation, 1894, either directly

or through a sub-contractor, by a person fulfilling a contract with the railway administration ; or

(xi) employed, otherwise than in a clerical capacity, in connection with operations for winning natural petroleum or natural gas ; or

(xii) employed in any occupation involving blasting operations ; or

(xiii) employed in the making of any excavation in which on any one day of the preceding twelve months more than fifty persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet ; or

(xiv) employed in the operation of any ferry boat capable of carrying more than ten persons ; or

(xv) employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed; or

(xvi) employed, otherwise than in a clerical capacity, in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas ; or

(xvii) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures ; or

(xviii) employed in the training, keeping or working of elephants or wild animals ; or

(xix) employed as a [driver] *diver*.

Explanation.—In this Schedule 'the preceding twelve months' relates in any particular case to the twelve months ending with the day on which the accident in such case occurred.

23. In Schedule III to the said Regulation after the entry relating to phosphorus poisoning, the following entries shall be added, namely :—

Mercury poisoning or its sequelæ.	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene and its homologues, or the sequelæ of such poisoning.	Handling benzene or any of its homologues and any process in the manufacture or involving the use of benzene or any of its homologues.
Chrome ulceration or its sequelæ.	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations.

Compressed air illness or its sequelæ.	Any process carried on in compressed air.
Miners' phthisis or silicosis,	Any occupation wherein the mineral dust is such as to cause silicosis.
Cyanide rash ...	The handling of cyanide or any work involving the use of cyanide.

24. For Schedule IV to the said Regulation, the following shall be substituted :—

SCHEDULE IV.

(See Section 4.)

Compensation Payable in certain Cases.

Monthly wages of the workman injured		Amount of compensation for		Half-monthly payment as compensation for temporary disablement of adult
		Death of adult	Permanent total disablement of adult	
More than	But not more than			
Rs.	Rs.	Rs.	Rs.	Rs. a.
0	10	500	700	Half his monthly wages
10	15	550	770	5 0
15	18	600	840	6 0
18	21	630	882	7 0
21	24	720	1,008	8 0
24	27	810	1,134	8 8
27	30	900	1,260	9 0
30	35	1,050	1,470	9 8
35	40	1,200	1,680	10 0
40	45	1,350	1,890	11 4
45	50	1,500	2,100	12 8
50	60	1,800	2,520	15 0
60	70	2,100	2,940	17 8
70	80	2,400	3,360	20 0
80	100	3,000	4,200	25 0
100	200	3,500	4,900	30 0
200	...	4,000	5,600	30 0

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